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Item 144 of the preliminary list*
Administration of justice at the United Nations

Amendments to the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal

Report of the Secretary-General

1. By its resolution 63/253, the General Assembly adopted the statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal. In paragraph 29 of the resolution, the Assembly, noting article 7, paragraph 1, of the statute of the United Nations Dispute Tribunal and article 6, paragraph 1, of the statute of the United Nations Appeals Tribunal, requested the Secretary-General to submit, for its approval, the rules of procedure of the Tribunals as soon as possible but no later than at its sixty-fourth session. The Assembly also decided that, until such time as it adopted the rules of procedure, the Tribunals could apply them on a provisional basis.

2. On 26 June 2009, the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal established their respective rules of procedure. The Assembly approved the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal by its resolution 64/119, adopted on 16 December 2009.

3. On 14 December 2010, in accordance with article 37, paragraph 1, of its rules of procedure, the United Nations Dispute Tribunal adopted an amendment to article 19 (Case management) of its rules of procedure.

4. On 28 October 2010, in accordance with article 32, paragraph 1, of its rules of procedure, the United Nations Appeals Tribunal adopted an amendment to article 9 (Answers), paragraph 4, of its rules of procedure.

5. On 10 March 2011, in accordance with article 32, paragraph 1, of its rules of procedure, the United Nations Appeals Tribunal adopted an amendment to article 4 (Panels), paragraph 2, of its rules of procedure, and adopted further amendments to article 9 (Answers).

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6. The rules, as amended, which apply provisionally until approved by the General Assembly, in accordance with article 37, paragraph 2, and article 32, paragraph 2, of the respective rules of procedure of the Tribunals, are annexed to the present report for the approval of the Assembly (see annexes I and II).

Annex I

Rules of procedure of the United Nations Dispute Tribunal: amendment to article 19 (Case management), adopted by the Tribunal in plenary meeting on 14 December 2010, in accordance with article 37, paragraph 1

1. Article 19 (Case management), as approved by the General Assembly, reads as follows: "The Dispute Tribunal may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties."

2. The United Nations Dispute Tribunal, by its decision of 14 December 2010, decided to add a second paragraph to article 19 to read as follows: "Where a party fails to comply with an order, the Tribunal may give such directions or make such orders as it considers appropriate in the particular circumstances, including a decision dismissing the application or response, as the case may be, provided that appropriate warning of the possible consequences of non-compliance has been given to the parties in writing."

3. Consequently, the amended version of article 19, for which the approval of the General Assembly is sought, reads as follows:

Article 19
Case management

1. The Dispute Tribunal may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.

2. Where a party fails to comply with an order, the Tribunal may give such directions or make such orders as it considers appropriate in the particular circumstances, including a decision dismissing the application or response, as the case may be, provided that appropriate warning of the possible consequences of non-compliance has been given to the parties in writing.

Annex II

Rules of procedure of the United Nations Appeals Tribunal: amendments to article 4 (Panels) and to article 9 (Answers), adopted by the Tribunal in plenary meeting on 28 October 2010 and 10 March 2011, in accordance with article 32, paragraph 1

Article 4 (Panels)

1. Article 4 (Panels), paragraph 2, of the rules of procedure of the United Nations Appeals Tribunal, as approved by the General Assembly, reads as follows: "When the President or any two judges sitting on a particular case consider that the case so warrants, the case shall be heard by the whole Appeals Tribunal."

2. The United Nations Appeals Tribunal, by its decision of 10 March 2011, decided to adopt an amendment to article 4, paragraph 2, by adding the following additional sentence to that paragraph: "If there is a tie in the voting by the judges of the whole Appeals Tribunal, the President shall have a casting vote."

3. Consequently, the amended version of article 4, paragraph 2, for which approval of the General Assembly is sought, reads as follows:

> 2. When the President or any two judges sitting on a particular case consider that the case so warrants, the case shall be heard by the whole Appeals Tribunal. If there is a tie in the voting by the judges of the whole Appeals Tribunal, the President shall have a casting vote.

Article 9 (Answers)

4. Article 9 (Answers), paragraph 4, of the rules of procedure of the United Nations Appeals Tribunal, as approved by the General Assembly, reads as follows: "Within 15 days of notice of the appeal, a party answering the appeal may serve a notice of cross-appeal with the Appeals Tribunal stating the relief sought and the grounds of the cross-appeal. The cross-appeal may not add new claims."

5. The United Nations Appeals Tribunal, by its decisions of 28 October 2010 and 10 March 2011, decided to amend the title of article 9 to read as follows: "Answers, Cross-Appeals and Answers to Cross-Appeals". It also decided to amend paragraph 4 to read as follows: "Within 45 days of notification of the appeal, a party answering the appeal may file a cross-appeal, accompanied by a brief which shall not exceed 15 pages, with the Appeals Tribunal stating the relief sought and the grounds of the cross-appeal. The cross-appeal may not add new claims." In addition, the Tribunal decided to add a new paragraph 6, in order to read as follows: "The provisions of article 9.1 to 9.3 and 9.5 apply, mutatis mutandis, to a cross-appeal and answer to a cross-appeal."

6. Consequently, the amended title of article 9, its amended paragraph 4 and its new paragraph 6, for which the approval of the General Assembly is sought, read as follows:

Article 9
Answers, Cross-Appeals and Answers to Cross-Appeals

4. Within 45 days of notification of the appeal, a party answering the appeal may file a cross-appeal, accompanied by a brief which shall not exceed 15 pages, with the Appeals Tribunal stating the relief sought and the grounds of the cross-appeal. The cross-appeal may not add new claims.

6. The provisions of article 9.1 to 9.3 and 9.5 apply, mutatis mutandis, to a cross-appeal and answer to a cross-appeal.